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April 23, 2020

**VIA ECF**

The Honorable Analisa Torres  
United States Courthouse, Courtroom 15D  
500 Pearl St.  
New York, NY 10007-1312

**Re: *Chen Oster et al v. Goldman Sachs & Co. et al.*, Case No. 10 Civ. 6950 (AT) (RWL)  
Request for Leave to File Amicus Curiae Brief on Behalf of the National  
Employment Lawyers Association/New York in Support of Plaintiffs' Objections to  
the Magistrate Judge's Order Compelling Class Members into Individual  
Arbitration (Dkts. 1004, 1005)**

Dear Judge Torres:

Amicus curiae, NELA/NY, by and through the undersigned counsel, respectfully requests leave to file the attached Brief of Amicus Curiae National Employment Lawyers Association/New York ("NELA/NY") in Support of Plaintiffs' Objections to the Magistrate Judge's Order Compelling Class Members into Individual Arbitration (Ex. A). Counsel for Plaintiffs has sought Defendants' consent to the filing of this brief and Defendants have not consented.

As set forth in the brief, NELA/NY is the New York affiliate of the National Employment Lawyers Association ("NELA"), a national bar association dedicated to the vindication of the rights of individual employees. NELA is the nation's only professional organization comprised exclusively of lawyers who represent individual employees. NELA has over 4,000 member attorneys and 69 state and local affiliates who focus their expertise on employment discrimination, employee compensation and benefits, and other issues arising out of the employment relationship. NELA/NY has more than 300 members and is one of NELA's largest affiliates.

NELA/NY is dedicated to advancing the rights of individual employees to work in an environment that is free of discrimination, harassment, and retaliation. Our members advance these goals by providing legal representation to employees who have been victims of discrimination and retaliation. NELA/NY has filed numerous amicus briefs in various courts in cases that raise important questions of anti-discrimination law. The organization's aim has been to highlight the practical effects of legal decisions on the lives of working people.

This case is important to our members and their clients because the Magistrate Judge's Order Compelling Class Members into Individual Arbitration (Dkt. 983) will curtail the rights of employees to seek redress in court. The challenged decision would allow employers facing class actions to

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extrajudicially usher the cases out of the courts midstream in a coercive or misleading manner that deprives employees of any semblance of free choice. Even in the case of relatively high-earners, individual damages are often modest and pale in comparison to the costs, burdens, and risks of proving discrimination. In instances of systemic disparities proven through statistical analysis, the Order could divest class members of a remedy entirely. This is a central purpose of class and collective actions: to achieve economies of scale that enable employees affected by common practices to vindicate their rights without any of them being left behind. The Order would thwart enforcement of the relevant anti-discrimination statutes by allowing employers to carve out a retroactive free pass for themselves in the midst of ongoing litigation. An employer should not be permitted to attain such an advantage without disclosing the consequences.

Amicus NELA/NY therefore respectfully requests that the Court accept the attached Exhibit A for filing in support of Plaintiffs' Objections to the Magistrate Judge's Order Compelling Class Members into Individual Arbitration.

Sincerely,



Russell Kornblith